

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
diGirolamo et al.

Serial No.: **10/701,190**
Filed: November 4, 2003

For: **STUD SPACER WITH INTERLOCKING
PROJECTIONS**

Docket No: **4782-042**

PATENT PENDING

Examiner: Hunter M. Dreidame

Group Art Unit: 3635

Confirmation No.: 5075

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Commissioner for Patents
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CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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October 22, 2007

Date

Kathleen L. McDermott

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RESPONSE TO FINAL OFFICE ACTION

The Patent Office has issued a final rejection in this case. The final rejection has been carefully studied and reviewed.

As pointed out in Applicants' last response, the key issue in this case revolves around claim construction, and particularly the proper construction for the claim terms "stud" and "stud spacer." It is clear that there is a real and substantial disagreement as to the proper construction of "stud" and "stud spacer." In Applicants' preceding response, the Applicants urged the Patent Office to set forth its construction of these terms. The Patent Office has refused. The Patent Office responds by maintaining that it has given the claim term "stud" its broadest reasonable interpretation. Yet, the Patent Office refuses to divulge the interpretation given these terms. Under these circumstances it is difficult, if not impossible, for the Applicants

to traverse the construction or to argue that the claim construction analysis is flawed. All that Applicants can do is to speculate on the construction and argue that the construction is wrong based on that speculation.

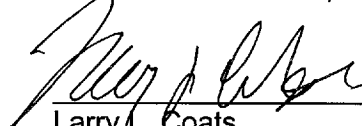
The Patent Office is under a duty and obligation to set forth this construction in such a manner that Applicants have a fair opportunity to respond to the same.

The Patent Office is respectfully requested to reconsider the claims in the present application. For the reasons set forth above, Applicants' claims define patentable subject matter over the cited reference. However, if the Patent Office continues to maintain these rejections, Applicants advise the Patent Office that they intent to appeal the rejections to the Patent Office Board of Appeals. Advising the Patent Office of their intent to appeal is respectfully put forth, and in no way is meant to be unprofessional, menacing, or the like. The issues in this case are clear and Applicants past responses traversing the rejections are thorough and complete. Applicants request that if agreement cannot be reached, that the Patent Office assure Applicants that it will stand on these rejections and not withdraw the final rejections and issue a new rejection after Applicants have spent substantial time, money and resources preparing an appeal brief.

Although no fees should be required for this response, if any are, please charge them to Coats & Bennett Deposit Account No. 18-1167.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



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Dated: October 22, 2007

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